IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

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S.B. CIVIL WRIT PETITION NO.4122/2005

Onkar Lal Meena

Versus

State of Rajasthan and Ors.

Date of Order : 25.7.2005

PRESENT

HON'BLE MR. JUSTICE R.P.VYAS

Mr. P.S. Bhati, for the petitioner/s

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The present writ petition under Article 226 of the constitution of India has been filed by the petitioner with a prayer that the impugned order of transfer dtd. 11.7.2005 (Annex.-3) may be quashed and set aside.

Briefly stated, the facts of the case, as stated by the petitioner, are that the petitioner joined the services of the respondent department on the post of Revenue Inspector (R.I.) on 3.10.1979. Later on, the petitioner was promoted in the year 1992 to the post of Naib Tehsildar. Later on, the petitioner was subjected to transfer vide

order dated 23.6.2004 (Annex.-1) from the Office of Tehsildar Ghadsana to Collectorate, Sriganganagar.

It is further averred that the petitioner was again transferred vide order dated 10.9.2004 (Annex.-2) from Sri Ganganagar to Chittorgarh.

Now, vide order dated 11.7.2005 (Annexure-3) the petitioner has been transferred from Chittorgarh to Udaipur on administrative exigency. This order has been challenged in this writ petition.

Heard learned counsel for the petitioner at admission stage.

The main contention of the learned counsel for the petitioner is that the petitioner has been subjected to frequent transfers in-as-much-as, in a very short span of period, he has been transferred thrice. That apart, there is no administrative exigency in transferring the petitioner by the impugned order. Further more, the frequent transfers also cause loss to the public exchequer by payment of T.A. and D.A. to the transferred employees. Therefore, in the facts and circumstances of

this case the impugned transfer order dated 11.7.2005 (Annex.-3) may be quashed and set-aside.

I have considered the submissions made by the learned counsel for the petitioner. The transfer is an incidence of service. It is not a punishment. It is the prerogative of the employer to transfer its employee as per its requirement in administrative exigency.

Looking to the facts and circumstances of the case, the petitioner was transferred for one place to another place, in administrative exigency. The petitioner has been transferred by a general order, whereby, in-as-much-as, eight persons were transferred. Therefore, it cannot be said that impugned order of transfer dated 11.7.2005 (Annex.-3) has been passed with ulterior motive or malafide intention.

That apart, the Hon'ble Supreme Court as well as this Court, in a catena of judgements, have held that the transfer order should not be interfered with, while exercising the power under Article 226 of the Constitution of India, unless the same is actuated with malice or mala-fide. The petitioner has not levelled any specific allegation

of mala-fide against any officer nor he has impleaded any one as a party respondent.

For the reasons mentioned above, the impugned order of transfer dated 11.7.2005 (Annex.-3) does not require any interference by this Court.

Accordingly, I do not find any merit in this writ petition and the same is hereby dismissed.

No order as to costs.

(R.P. VYAS)J.

Rm/